

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

HASAN ALIMAMY CONTEH,

Plaintiff,

v.

AMERICAN ELECTRIC POWER,

Defendant.

Case No. 2:23-cv-3693

Judge James L. Graham

Magistrate Judge Elizabeth P. Deavers

REPORT AND RECOMMENDATION

This case was filed on November 3, 2023. (ECF No. 1.) On February 8, 2024, the Court noted that “[i]t does not appear that service of process . . . has been completed as required by Federal Rule of Civil Procedure 4(m),” and ordered Plaintiff to show cause within fourteen (14) days why the action should not be dismissed. (ECF No. 3.) On February 27, 2024, the Court noted that “[t]o date, Plaintiff has not responded,” and ordered Plaintiff to show cause within seven (7) days why the action should not be dismissed. (ECF No. 4.) The Court also advised Plaintiff that “failure to timely respond **WILL** result in a recommendation that the Court dismiss Plaintiff’s claims for failure to prosecute.” (*Id.*) To date, Plaintiff has not responded to the Court’s February 8, 2024 or February 27, 2024 Orders.

Under the circumstances presented in the instant case, the Undersigned recommends dismissal of Plaintiff’s action with prejudice pursuant to Federal Rule of Civil Procedure Rule 41(b). The Court’s inherent authority to dismiss a plaintiff’s action because of their failure to prosecute is expressly recognized in Rule 41(b), which authorizes involuntary dismissal for failure to prosecute or to comply with rules of procedure or court orders. *See* Fed. R. Civ. P. 41(b); *Chambers v. NASCO, Inc.*, 501 U.S. 32, 49 (1991) (noting that “a federal district court has

the inherent power to dismiss a case *sua sponte* for failure to prosecute” as recognized in *Link v. Wabash R. Co.*, 370 U.S. 626, 629–32 (1962)). “This measure is available to the district court as a tool to effect management of its docket and avoidance of unnecessary burdens on the tax-supported courts [and] opposing parties.” *Knoll v. American Tel. & Tel. Co.*, 176 F.3d 359, 363 (6th Cir. 1999) (citation omitted) (internal quotations omitted).

On February 27, 2024, the Court expressly cautioned Plaintiff that failure to comply with the Court’s Orders may result in dismissal for failure to prosecute. (ECF No. 4.) *See Stough v. Mayville Cmty. Schs.*, 138 F.3d 612, 615 (6th Cir. 1998) (noting that “[p]rior notice, or lack thereof, is [] a key consideration” in whether dismissal under Rule 41(b) is appropriate); *see also Steward v. City of Jackson*, 8 F. App’x 294, 296 (6th Cir. 2001). While the Court is mindful of Plaintiff’s *pro se* status, dismissal is nevertheless appropriate given Plaintiff’s failure to comply with the readily comprehended deadlines. *See Steward*, 8 F. App’x at 296-297 (citing *Jourdan v. Jabe*, 951 F.2d 108, 110 (6th Cir. 1991)).

It is therefore **RECOMMENDED** that the Court **DISMISS** Plaintiff’s claims against Defendant **WITH PREJUDICE** under Rule 41(b).

PROCEDURE ON OBJECTIONS

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part in question, as well as the basis for objection. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy. Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review of by the District Judge and waiver of the right to appeal the judgment of the District Court. Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Robert v. Tesson*, 507 F.3d 981, 994 (6th Cir. 2007) (“[A] general objection to a magistrate judge’s report, which fails to specify the issues of contention, does not suffice to preserve an issue for appeal” (citation omitted)).

Date: March 19, 2024

/s/ Elizabeth A. Preston Deavers
ELIZABETH A. PRESTON DEAVERS
UNITED STATES MAGISTRATE JUDGE